

MUNICIPALITY OF THE COUNTY OF KINGS



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MUNICIPALITY OF THE COUNTY OF KINGS

BY-LAW NO. 95

KINGSPORT, HABITANT AND LONGSPELL ROAD WATER SYSTEM CAPITAL RECOVERY BY-LAW

SUBTITLE

A By-law Providing for the Recovery of Capital Costs of Installing a Water System in the communities of Kingsport, Habitant and Longspell Road in the Municipality of the County of Kings.

PREAMBLE & ENACTMENT

WHEREAS the Municipality of the County of Kings is considering constructing a water system in the communities of Kingsport, Habitant and Longspell Road;

AND WHEREAS the Municipality has legislative authority and responsibility with respect to levying a uniform charge on taxable property assessments within a certain area, as well as imposing, fixing and providing methods of enforcing payment of charges, all to recoup the municipal portion of the capital costs of installing the water system;

AND WHEREAS the Municipality desires to enact a by-law to impose, fix and provide for such a system and methods of enforcing payment of all such charges and fees in the communities of Kingsport, Habitant and Longspell Road, Kings County;

AND WHEREAS approximately one hundred and eighty-seven properties are likely to benefit from such a system;

AND WHEREAS seventy-four property owners have committed to using such a water system and their commitment shall be addressed by levying a uniform charge on such properties to cover the municipal capital costs (excluding “gas tax” money) for the construction of the system;

AND WHEREAS property owners who wish to use the system but who have not committed shall contribute to the recovery of municipal capital costs (i.e. the “gas tax” money) for the construction of the system by paying a water system capital charge;

BE IT ENACTED by the Council of the Municipality as follows:

PART 1 - GENERAL PROVISIONS

Title and Definitions

1. This By-Law may be cited as the *Kingsport, Habitant and Longspell Road Water System Capital Recovery By-Law*
2. In this By-Law:
 - (a) “**Cost of Project**” means the total cost of installing a water system and, without limiting the foregoing, includes expenses related to installing service laterals, all costs of construction, installation and administration, any expenses related to professional services, and incidental expenses.
 - (b) “**Council**” means the Council of the Municipality;
 - (c) “**curb stop**” means a shut off valve installed by the Municipality on a service lateral with a protective housing to the ground surface;
 - (d) “**Engineer**” means the Engineer of the Municipality and includes a person acting under the supervision and direction of the Engineer, except where the Water System is owned by a Water Utility which is not operated by the Municipality, in which case “Engineer” means the person appointed by the Utility to perform the functions of the Engineer set out in this By-law;
 - (e) “**Water System**” means a water system, the capital cost of the System or any portion thereof the Municipality paid or for which the Municipality is liable whether or not owned by the Municipality, and which is installed in or near the communities of Kingsport, Habitant or Longspell Road, Kings County, Nova Scotia, more particularly described as follows:
 - i. Beginning in the Village of Canning and proceeding east along Highway 221 to the intersection of Longspell road; then proceeding east to the end of Longspell Road;
 - ii. The system also includes the streets all or part of which are located within the Hamlet of Kingsport;
 1. Pleasant Street, Church Street, Main Street and Water Street, Borden Avenue, Breezy Bluff Lane;
 2. The portion of Pier Road located within the Kingsport Hamlet boundary.
 - (f) “**Municipality**” means the Municipality of the County of Kings;
 - (g) “**Municipal Services Specifications Manual**” means the Manual adopted by Council pursuant to the Subdivision By-Law.
 - (h) “**Owner**” as it refers to the owner of property includes:
 - (i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building;
 - (ii) in the case of the absence or incapacity of the person having title to the land or building, a Trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building; and

(iii) in the absence of proof to the contrary, the person assessed for the property;

- (i) “**person**” includes a corporation and the heirs, executors, administrators or other legal representatives of a person, but specifically excludes the Municipality;
- (j) “**service lateral**” means a pipe and the necessary valves and protective boxes, connections, thaw wires, meters and any other material necessary and actually used to connect the water main of a water system to a curb stop;
- (k) “**Treasurer**” means the Treasurer of the Municipality, and includes a person acting under the supervision and direction of the Treasurer; and
- (l) “**water system**” means the source, structures, pipes, hydrants, meters, service laterals, devices, equipment or other things used, or intended, for the collection, transportation, pumping or treatment of water.

PART 2 - WATER SYSTEM INSTALLATION PROJECT

- 3. Council may consider and may construct the Water System, after receipt of a report and recommendation from the Engineer and according to the then current policy of Council relating to such projects.

PART 3 - SERVICE CONNECTIONS

Illegal Connections

- 4. No person shall connect or attempt to connect or allow to be connected or allow to remain connected to the Water System any property or premises other than in accordance with the provisions of this By-Law.

Connection Application

- 5. No connection to the Water System shall be made until an application for a service connection has been approved by the Engineer. Each application for a service connection shall be submitted to the Engineer by the Owner or his/her authorized agent in the current form prescribed by the Engineer together with any Connection or other fee payable pursuant to any other by-law or Rules or Regulations applicable to the Water System. Applications held by the Engineer when this By-law comes into effect are applications for the purposes of this By-law. If the connection is practicable and any fee payable is paid, the Engineer shall approve the application. If such connection is not practicable, the Engineer shall notify the applicant within 60 days. Where a service lateral is not installed, the applicant shall be responsible for construction of the service lateral. The applicant shall not connect to the Water System without complying with all Rules and Regulations of the Water Utility responsible for the System. Applications shall not be withdrawn after they have been submitted.

PART 4 – UNIFORM CHARGE

Uniform Charge

- 6. A Uniform Charge shall be levied on the seventy-four properties within the area identified in Schedule “A” in this By-Law. The Uniform Charge shall be calculated as shown in Schedule “B” to this By-Law.

Area

7. Schedule "A" shall identify the area by listing the present assessment account numbers of all taxable property assessments in the area, and all land included in each assessment shall be included in the area.

Due

8. The Uniform Charge is due on the 30th day following the date the Engineer certifies to the Treasurer that the construction of the Water System is complete.

Payable

9. The Uniform Charge is payable in ten equal annual instalments, with the first instalment payable at the same time and in the same manner as the first September property tax invoice of the Municipality which is issued following the Engineer's certificate of completion, and annually thereafter in the same manner as the corresponding property tax invoice. Upon default of payment of any instalment, the balance shall be payable.

Interest accrues monthly, is compounded monthly, and is payable annually on any amount overdue (i.e. billed and unpaid) for 30 days, at a rate set by policy of Council.

Interest is accrued monthly commencing 30 days following the date that the first payment is payable pursuant to the first paragraph of this section. This interest is compounded monthly. This interest accrues on that part of the Uniform Charge which has been due but not owing, and it is payable annually, at a rate set by policy of Council.

The Owner may prepay the whole or any part of the Charge, or the balance outstanding, plus interest accumulated to the date of payment, at any time without notice.

Connection

10. Each property upon which the Uniform Charge is levied shall benefit from one service lateral installed to it by the Municipality, and the Owner of the property may construct a service connection to the Water System, subject to the terms and conditions of the Engineer's approval, without payment of a Water System Capital Charge for the connection. Additional service laterals, if permitted, shall be subject to the provisions of Part 5 of this By-law.

PART 5 - WATER SYSTEM CAPITAL CHARGE

Water System Capital Charge

11. Every Owner who successfully applies for a service connection to the Water System shall pay a Water System Capital Charge to the Municipality unless it is the first connection for the property and a Uniform Charge was levied on the property. The Water System Capital Charge shall cease to be collected when enough Owners have successfully applied for service connections that the Municipality will completely recoup its share of the Cost of Project plus any financing costs. The Water System Capital Charge payable by an Owner shall be calculated as shown in Schedule "C" of this By-Law.

Due

12. The Water System Capital Charge is due upon application for a service connection.

Payable

13. The Water System Capital Charge is payable in ten equal annual instalments with the first instalment payable at the same time and in the same manner as the first September property tax invoice of the Municipality issued following the application for a service connection, and annually thereafter in the same manner as the corresponding property tax invoice. Upon default of payment of any instalment, the balance shall be payable.

Interest accrues monthly, is compounded monthly, and is payable annually on the amount overdue (i.e. billed and unpaid) for 30 days, at a rate set by policy of Council.

Interest is accrued monthly calculated from 30 days following the date that the first payment is payable pursuant to the first paragraph of this section. This interest is compounded monthly. This interest accrues on that part of the Uniform Charge which is due but not owing, and the interest is payable annually, at a rate set by policy of Council.

The Owner may prepay the whole or any part of the Charge, or the balance outstanding, plus interest accumulated to the date of payment, at any time without notice.

PART 6 - LIEN

Lien

14. The Uniform Charge and all interest payable pursuant to Part 5 of this By-Law are a first lien on the land upon which it is levied and the Charge and interest may be collected in the same manner as other taxes and, at the option of the Treasurer, be collectable at the same time, and by the same proceedings, as taxes. The lien is effective when the money is due.
15. The Water System Capital Charge and any interest payable pursuant to Part 6 of this By-Law are a first lien on the land which will benefit from the service connection and the Charge and interest may be collected in the same manner as other taxes and, at the option of the Treasurer, be collectable at the same time, and by the same proceedings, as taxes. The lien is effective when the money is due.

PART 7 - INSPECTION

Inspection

16. The officers and employees of the Municipality are authorized to enter at all reasonable times upon any premises which are subject to this By-Law to ascertain compliance with this By-Law.

PART 8 - PENALTIES

Penalties

17. Any person who violates any of the provisions of this By-Law shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding the sum of \$10,000.00 and not less than \$275.00, and each day during which any violation, contravention or breach shall continue shall be deemed as a separate offence.

PART 9 - GENERAL PROVISIONS

18. Schedules "A", "B" and "C" are attached to and form part of this By-Law.
19. If any part, section, sentence, clause, phrase or word of this By-law is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder which shall continue in full force and effect and be construed as if the By-law had been adopted without the invalid portion.

SCHEDULE "A"

**PROPERTIES SUBJECT TO UNIFORM CHARGE
(listed by AAN and benefiting from one service lateral)**

01026267	01017837
00097365	04957849
01740504	05391636
03215601	03660508
00535281	03443418
03458903	04050428
01476319	01740512
00558095	02069539
00556378	02051818
02901056	04843134
03276074	02451042
00021466	03247821
02028158	00287776
01155628	04240707
00728799	00476102
00448761	04961692
01120883	02088576
01223453	02104008
00351601	04099974
04316185	04926781
01245465	01612255
04171322	04788796
01613839	03325415
03606279	04080335
04168798	01400401
02388596	02115905
00973599	09438408
00569941	01284851
03868095	01337505
00135399	01905783
02330105	02697858
02575221	01040146
02376768	02019493
03062783	04505093
02116057	04410076
03289338	01929194
00835463	10048729

SCHEDULE “B”

UNIFORM CHARGE

The Uniform Charge payable by an Owner to the Municipality applicable to the Water System shall be determined by using the following formula:

CP minus GFC

divided by PO

equals UC

where:

CP = Cost of Project;

GFC = total Government Financial Contributions of Federal, Provincial and municipal governments;

PO = 74, which is the total number of Property Owners committed to using the Water System which is reflected by Schedule “A”; and

UC = Uniform Charge levied on each taxable property assessment in the area.

SCHEDULE “C”

WATER SYSTEM CAPITAL CHARGE

The Water System Capital Charge payable by an Owner to the Municipality applicable to the Water System shall be determined by using the following formula:

UC indexed upwards by the greater of 1.2% and the increase in the Nova Scotia Consumer Price Index between the date that the Engineer certified the Water System as complete and the date of the application for a service connection

multiplied by OSL

equals WSCC

where:

UC = UC calculated pursuant to Schedule “B”;

OSL = number of Owner’s Service Laterals to the Owner’s property from the Water System that the Owner has applied to connect to; and

WSCC = Water System Capital Charge payable.

History of this By-law

Enacted - December 1, 2009

Repealed – February 11, 2014